

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

JAMES CARAWAY,

Plaintiff

VS.

JOE CHAPMAN, *et al.*,

Defendants

NO. 3:08-CV-61 (CDL)

PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE

RECOMMENDATION

Before the court is defendant SHERIFF Joe Chapman and OFFICER McKnight's motion seeking dismissal. Tab #13. This motion was originally filed on behalf of defendants Chapman, McKnight, and Harris, however, defendant Harris has since been dismissed from this action. See Tab #5 and Tab #12. In the motion, the remaining defendants request that the court dismiss this action on the grounds that plaintiff James Caraway has failed to participate in discovery. In the alternative, the defendants ask that the time for discovery be extended. After reviewing the record, it appears that during the time since this motion was filed, plaintiff Caraway has participated in a deposition and responded to the defendants' discovery requests. Additionally, the defendants have timely filed a motion seeking summary judgment which is also pending before the court. Tab #52. For these reasons, the undersigned recommends that the defendants motion seeking dismissal be **DENIED**.

Pursuant to 28 U.S.C. §636(b)(1), the parties may serve and file written objections to this RECOMMENDATION with the district judge to whom this case is assigned **WITHIN TEN (10) DAYS** after being served with a copy thereof.

SO RECOMMENDED, this 12th day of JUNE, 2009.



A handwritten signature in black ink, reading "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE